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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/154.126 11/18/93 KAMIGUCHI

M 392.1290C

EXAMINER
HEITBRINK, J

13M1/1007

ART UNIT. PAPER NUMBER

STAAS & HALSEY
700 ELEVENTH ST. N.W. SUITE 500
WASHINGTON, DC 20001

13

1307

DATE MAILED: 10/07/94

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 11-18-93 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-12 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 1-12 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

Art Unit: 1307

1. 35 U.S.C. § 101 reads as follows:

"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title".

Claims 9-12 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

These claims contain a mathematical algorithm wherein the steps of sampling and storing do not make the claims statutory. See Ex parte Akamatsu, 22 USPQ2d 1915; In re Freeman 197 USPQ 464; and Abel 214 USPQ 687. This rejection would be overcome by specifically claiming a step and operation of injection molding.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 10 is rejected under 35 U.S.C. § 102(b) as being clearly anticipated by European Patent Application 299,085 to Hara.

4. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in

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section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

5. Claims 1-9, 11 and 12 are rejected under 35 U.S.C. § 103 as being unpatentable over European Patent Application 299,085 to Hara.

Hara discloses a process essentially equivalent to that claimed except for the type of change performed on the injection pressure waveform. It would have been obvious to a person of ordinary skill in that art to form a curved or straight line between two points on the pressure waveform because the adjusting of the injection pressure is well known to those of ordinary skill in the art. The injection and hold stages in Hara are similar to applicants injection/dwell stage.

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The periodically detecting of pressure and storing the detected pressure in a memory with a time address would have been obvious in Hara because the waveform graph in Hara would require the storing of the information which is graphed.

The rejection under 35 U.S.C. 112, first paragraph, has been withdrawn since applicant states that the specific modification performed to the waveform would have been known to one of ordinary skill in the art or determined by trial-and-error.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill Heitbrink whose telephone number is (703) 308-0673.



JILL L. HEITBRINK
PRIMARY EXAMINER
ART UNIT 137

JLH
September 30, 1994